

*Sub D*

129. (New) The method of claim 128 further including the step of increasing the height of other items proximate to said one item to levels less than said maximum level.

130. (New) The method of claim 129 wherein the heights of said other icons are increased by a factor that is inversely related to their distances from said cursor.

131. (New) The method of claim 130 wherein the other icons whose heights are increased are those which are located within a defined distance of said cursor.

132. (New) The method of claim 131 wherein the value for said defined distance is user-determinable.

133. (New) The method of claim 130 wherein said factor is based upon the sine function.

134. (New) The method of claim 128 wherein said maximum height is user-selectable.

135. (New) The method of claim 128 wherein said items are arranged in a row along one edge of the graphical user interface to form said region.

#### REMARKS

In response to the Office Action dated September 25, 2002, Applicants respectfully request reconsideration and withdrawal of the rejections of the claims. The allowance of claims 109-117, and the indication that claims 6-8, 29, 30, 33, 34, 39-41, 65, 66, 69, 70, 75, 77, 78, 101, 102, 105, 106, 124 and 125 contain allowable subject matter, is noted with appreciation.

All of the other pending claims were rejected under 35 U.S.C. §103, as being unpatentable over the *Selker* patent in view of the *Carpendale et al.* publication, either by themselves or in combination with other references. With respect to independent claims 1,

35, 71, 107 and 118, the Office Action states that the *Selker* patent discloses a method for improving visibility and selectability of icons, by increasing size and/or skew of one or more icons in a generally inverse relation to proximity of a cursor. The Action acknowledges, however, that the *Selker* patent does not teach repositioning other icons along a menu to accommodate the varied size of one icon. In this regard, the Action states that the *Carpendale* publication discloses distortion viewing techniques for 3-dimensional data that apply magnification and distortion, in which a chosen focus is magnified to display detail, and neighbors are repositioned to accommodate the focal object.

It is respectfully submitted that the Office Action does not meet the requirements for a proper rejection under 35 U.S.C. §103. For instance, MPEP §706.02(j) sets forth the following elements for a rejection under 35 U.S.C. §103:

- (A) the relevant teachings of the prior art relied upon...,
- (B) the difference or differences in the claim over the applied reference(s),
- (C) the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter, and
- (D) an explanation of why one of ordinary skill in the art at the time the invention was made would have been motivated to make the proposed modification.

It is respectfully submitted that the rejections set forth in the Office Action do not contain either of the last two elements identified in the MPEP. Specifically, there is no explanation of the manner in which the teachings of the *Selker* patent are being modified in view of the *Carpendale* publication. The Office Action merely identifies what each reference teaches, without setting forth *how* their respective teachings are to be combined. Likewise, there is no explanation *why* a person of ordinary skill in the art would want to make such a modification, i.e., the Office Action does not set forth any motivation for the combination. For at least these reasons alone, Applicants respectfully submit that the rejection should be withdrawn.

Furthermore, with respect to the fourth required element of a rejection, the MPEP goes on to state:

[T]here must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings... The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure.

It is respectfully submitted that these criteria are not met by the disclosures of the *Selker* and *Carpendale* references, and hence there is no motivation to combine their teachings. More particularly, as noted in the Office Action, the *Selker* patent is concerned with "providing increased visibility and ease of selection of icons and menu entries without compromising cursor response" (Col. 1, lines 13-15). In other words, the *Selker* patent is concerned with elements of a user interface for a computer. In contrast, the *Carpendale* publication is directed to "limitations encountered in accessing internal regions" of three-dimensional representations of data (see, e.g., the Abstract). There is no apparent nexus between the two references. The problem addressed by the *Carpendale* publication, namely access to internal regions of data represented in a 3-dimensional format, is not applicable to the menu entries of the *Selker* patent. In *Selker*, the icons that constitute the menu are arranged in a 1-dimensional format, and hence there are no hidden internal regions that need to be accessed. Furthermore, there is nothing in the *Carpendale* publication which suggests any applicability to menus in a graphical user interface. In particular, there is no indication that the blocks or cubes in the various figures of the publication represent icons or menu items. Nor does the publication deal with ease of access to icons and menu items that are already visible on the user's screen.

Accordingly, there is no apparent reason why a person of ordinary skill in the art, working in the technology represented by the *Selker* patent, would refer to the *Carpendale* publication. There is no teaching in either of these references that suggests their combinability. As such, the only motivation to combine them must come from Applicants' own disclosure. As set forth in the MPEP, however, it is improper to use Applicants' teachings as a basis for the combination.

In summary, therefore, it is respectfully submitted that a person of ordinary skill in the art who is faced with the problems addressed by the present invention would not look to

the *Carpendale* publication for a solution to those problems. Reconsideration and withdrawal of the rejections based upon the *Carpendale* publication are therefore respectfully requested.

Furthermore, even if the teachings of the *Selker* patent and the *Carpendale* publication could somehow be combined, and sufficient motivation for doing so existed, it is respectfully submitted that a number of the features recited in the claims are still not taught by the references. For example, claim 5 recites that the processor "repositions said *others* of said plurality of tiles" in accordance with a predefined relationship between an effect width W, a default height h and a selected maximum height H. The rejection of this claim refers to *Selker's* teaching of applying the Pythagorean theorem to the distances between an icon and a cursor. However, this teaching has nothing to do with *repositioning* icons since, as acknowledged in the rejection of claim 1, *Selker* does not contain any teaching to this effect. Furthermore, it does not suggest that *other* icons, i.e., those other than the one being resized due to its proximity to the cursor, should be repositioned in accordance with those factors. Finally, it is not seen where the use of a Pythagorean theorem to calculate the distance between a cursor and an icon suggests any of the three factors recited in the rejected claims, namely an effect width, a default height or a maximum height. If the rejection of any of claims 5, 38 or 74 is maintained, the Examiner is respectfully requested to explain how the *Selker* patent is being interpreted relative to the specific factors recited in these claims.

Claim 12 recites a user selection function for permitting a *user* to select a value of at least one characteristic of the tile bar, and claims 13-15 specify various user-selectable characteristics. In connection with these claims, the Office Action refers to column 9, lines 29-35 of the *Selker* patent. However, this portion of the patent does not state that the value for an attribute of the bar is *user* selectable. Rather, to the extent that selectivity is suggested, it is disclosed as being dependent upon "the enhancement mode determined by the operational state of the application." There is no disclosure that the user has any role in the selection. Accordingly, it is respectfully submitted that the subject matter of claims 12-15 is not suggested by the *Selker* patent.

Claim 21 recites that the plurality of tiles occupy multiple rows on the display. The rejection of this claim contains a general reference to Figures 1-25 of the *Carpendale* publication. However, none of these figures relate to elements of a user interface, such as icons or tiles on a bar. Hence, it is not seen how this reference can be interpreted to suggest the subject matter of claim 21.

Claim 120 recites that the *other* icons are magnified by a factor that is inversely related to their distances from the cursor. As noted above, the "other" icons are different from the one whose size is magnified as a result of its proximity to the cursor. The *Selker* patent does not disclose that any of these other icons are magnified. Rather, only selected icons are magnified, in accordance with their distance from the cursor. Thus, the patent does not suggest the subject matter of claim 120.

The foregoing discussion has been presented with respect to representative claims. It is respectfully submitted that other pending claims which recite the same or similar features as those discussed above are likewise distinguishable on these additional bases.

For at least the foregoing reasons, it is respectfully submitted that all pending claims are patentable over the *Selker* and *Carpendale* references, whether considered by themselves or in combination with any of the other tertiary references. Reconsideration and withdrawal of the rejections are therefore respectfully requested.

Respectfully submitted,

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